

ZONING

Zoning

Zoning is a function of municipal government, authorized by State Law, which allows local governments to establish distinct districts for the purpose of regulating the use and development of land. The City of College Station adopted its first Zoning Ordinance in 1940. Today, zoning is regulated through the Unified Development Ordinance.

The goal of the Unified Development Ordinance is not to regulate every detail of local development, but rather to ensure compatible land-use patterns by minimizing conflicts between uses and, therefore, protecting property values and enhancing the urban environment. Zoning and its ensuing regulations help the City to carry out its land-use plans in order to ensure that growth and development is predictable.

There are other reasons for zoning regulation. In particular, zoning helps to:

- Encourage the most appropriate use of property;
- Prevent traffic problems by not allowing a concentration of heavy traffic generators to locate in the same area, without having an adequate street system;
- Provide for adequate open and developed space;
- Control population density;
- Make it easier to provide water, sewer, roads, parks, and public buildings;
- Minimize damage in case of natural disasters;
- Control unlawful uses of land and buildings;
- Conserve energy in land and building use; and
- Promote the public health, safety, economy, and general welfare.

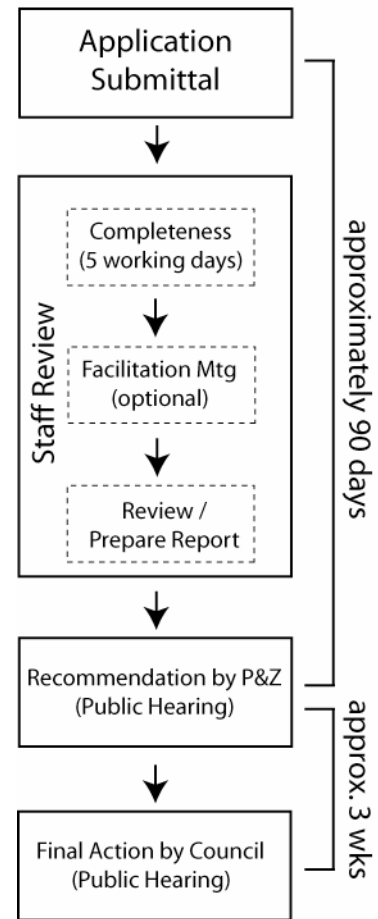
Comprehensive Plan Amendment

The Comprehensive Plan serves to establish a vision for sound, stable, and desirable development within the City. The Land Use Plan and the Thoroughfare Plan are part of the Comprehensive Plan, and serve to guide the general development goals of the City. The Land Use Plan sets out general locations of where development should occur by use, and the Thoroughfare Plan sets out the general location of the future road network.

Applications for amendments to the Comprehensive Plan are reviewed in light of changed or changing conditions in a particular area in the City from the original Plan. An amendment may be initiated by the City Council, the Planning & Zoning Commission, the Administrator, or the property owner.

Once a complete application has been submitted, Staff reviews the request, and provides a report to the Planning & Zoning Commission. After the required public hearing, the Planning & Zoning Commission reviews and takes action on the amendment. If the Commission determines that no amendment is required, the applicant may proceed with the next step in the development process without further action by the City Council.

If the Planning & Zoning Commission determines that an amendment is necessary, the application proceeds to the City Council for action with the accompanying Staff report and Planning & Zoning Commission recommendation. After the required public hearing, the City Council will review and take final action on the proposed amendment.



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Zoning Map Amendment (Rezoning)

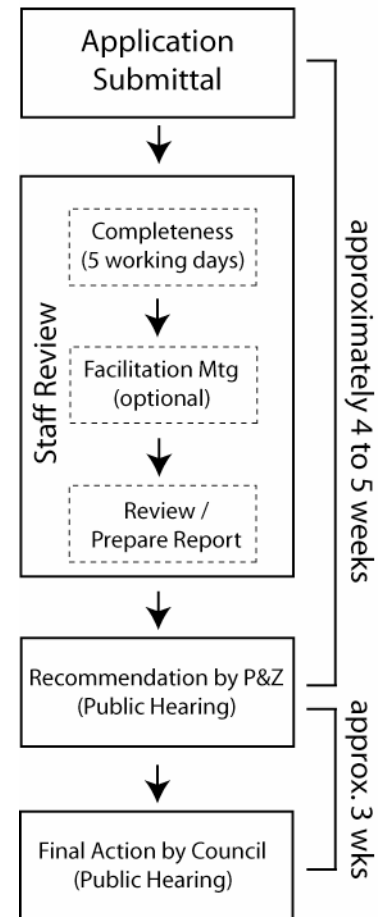
The Official Zoning Map may be amended to rezone an area or extend the boundary of an existing zoning district to accommodate changes in development growth. All amendments must be in accordance with the Comprehensive Plan.

Applicants interested in a rezoning must first attend a Pre-Application Conference. Once a complete application has been submitted, Staff will research and review the amendment request and make a report to the Planning & Zoning Commission. Staff will review a rezoning request and make a recommendation based on the following factors:

- Consistency with the Comprehensive Plan;
- Compatibility with present zoning, conforming uses of nearby property, and with the character of the neighborhood;
- Suitability of the property for uses permitted by the proposed district;
- Suitability of the property for uses permitted by the current district;
- Marketability of the property for uses currently permitted; and
- Availability of infrastructure suitable and adequate for the proposed use.

After the required public hearing, the Planning & Zoning Commission will make a recommendation to City Council on the proposed amendment.

After the required public hearing the City Council will take action on the proposed amendment. Changes to the UDO or rezoning may be protested under Chapter 211 of the Texas Local Government Code. The protest must be written and signed by the owners of at least 20 percent of the area of lots covered by the proposed change, or of the area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from that area. In order to take effect, the proposed change must receive the affirmative vote of at least three-fourths of all members of the City Council.

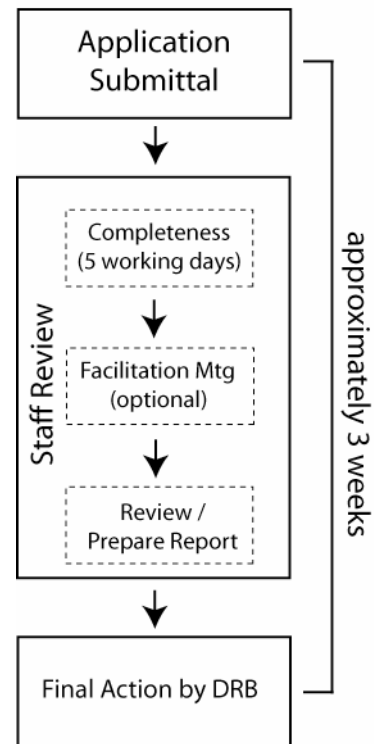


Concept Plan Review (PDD and P-MUD Districts)

A Concept Plan, or a generalized plan identifying the location of a proposed land use, land use intensity, and applicable thoroughfares, is required prior to any development of property zoned Planned Development District (PDD) or Planned Mixed Use District (P-MUD).

Depending on the circumstances of a particular development, there are different approval processes that a Concept Plan must go through. A Pre-Application Conference is required for this process, so staff can better inform the applicant of what is required for Concept Plan Review. Once a complete application has been submitted, Staff will review the Concept Plan and make a recommendation to the Design Review Board. Plans are reviewed for the following criteria:

- The proposal will constitute an environment of sustained stability and will be in harmony with the character of the surrounding area;
- Conformity with the policies, goals, and objectives of the Comprehensive Plan;
- Compatibility with existing or permitted uses on adjacent sites;
- Residential access to a public street directly or via a court, walkway, or public area;
- Adequate public improvements;
- The development will not be detrimental to the public health, safety, welfare, or materially injurious to properties or improvements in the vicinity; and
- The development will not adversely affect the safety and convenience of vehicular, bicycle, or pedestrian circulation in the vicinity.



However, if the proposed area involves any parkland or greenway dedication (required or voluntary) the proposal must be reviewed by the Parks and Recreation Board and the Greenways Program Manager, respectively. Their recommendations are forwarded on to the Design Review Board who will review the recommendations and make a final decision.

An approved Concept Plan will expire within 24 months of the date of approval. A one-time extension of twelve months may be granted by the Administrator upon demonstration of substantial progress and the lack of changed or changing conditions in the area. A current Concept Plan is required to submit Plats or Site Plans for the property.

In the event that any changes must be made to a Concept Plan, the Administrator, or designee, may approve the following amendments to an approved Concept Plan:

- Minor additions to structures;
- Minor new accessory structures;
- Minor additions to parking lots;
- An increase of the total number of dwelling units for residential developments if the maximum allowable density shown on the Land Use Plan is not exceeded;
- Clearing or grading of areas not depicted on the concept plan as a conservation area, greenway, or park; and
- Final determination of the specific modifications such as setbacks, lot size, dimensional standards, etc.

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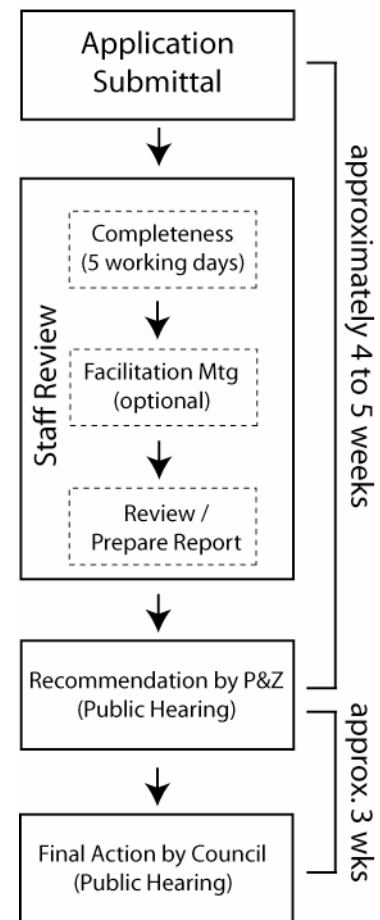
Conditional Use Permit

A conditional use permit is necessary for uses which are generally compatible with uses permitted by right in a zoning district, but require individual review of their location, design, configuration, density and intensity, and may require the imposition of additional conditions in order to ensure the appropriateness and compatibility of the use at a particular location.

This process provides the City Council with discretionary approval of uses with unique or widely varying operating characteristics or unusual site development features. A Pre-Application Conference is also required for this process.

After submission of a complete application, Staff will review the request and make a report to the Planning & Zoning Commission based on the following review criteria:

- Meets the purpose and intent of the UDO, and the use meets all minimum standards for this type of use.
- Consistent with development policies, goals, and objectives in the Comprehensive Plan.
- The proposed use is not detrimental to the health, welfare, or safety of the surrounding neighborhood or its occupants, nor substantially or permanently injurious to neighboring property.
- The proposed site plan and circulation plan must be harmonious with the character of the surrounding area.
- The proposed use does not negatively impact existing uses in the area or in the City through impacts on public infrastructure such as roads, parking facilities, electrical, or water and sewer systems, or on public services such as police and fire protection, and solid waste collection.



After the required Public Hearing, the Planning & Zoning Commission will make a recommendation to the City Council based on the review criteria and Staff's recommendation. The City Council will hold a Public Hearing and with consideration of the recommendation provided by the Planning & Zoning Commission, take action on the conditional use permit application.

The City Council has the authority to impose additional restrictions or conditions to a conditional use permit. These requirements may include increased open space, loading and parking requirements, additional landscaping, and additional improvements such as curbing, utilities, drainage facilities, sidewalks, and screening.

Conditional Uses are granted for a period of 12 months from the date of approval by the City Council. If construction of the project has not begun within this period, the Conditional Use will expire. The Administrator may extend the Conditional Use Permit for up to one additional six-month period upon demonstration of substantial progress and the lack of changed or changing conditions in the area and upon written request from the applicant, which must be received before the date of expiration.

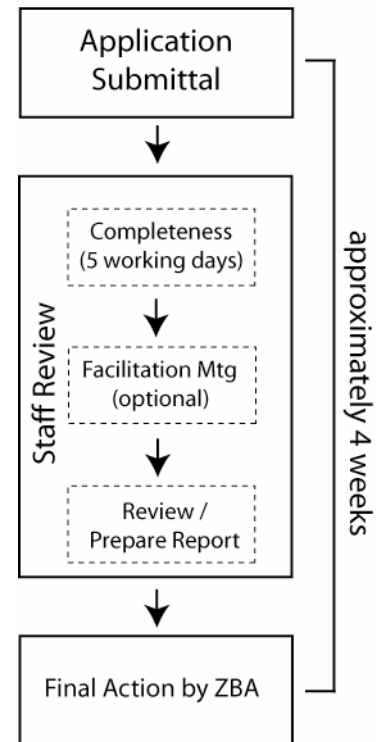
Variances

The Zoning Board of Adjustment is authorized to grant a variance from the terms of the UDO if they find that the strict enforcement of the UDO would create a substantial hardship to the applicant by virtue of unique special conditions not found elsewhere within the City, and that the variance would preserve the spirit and intent of the Ordinance, and serve the general interests of the public and the applicant.

The Zoning Board of Adjustment has the authority to grant variances from the standards in the UDO, except for standards in Article 8, Subdivision Design and Improvements, and requests for relief from a site plan requirement.

After the submission of a complete application, Staff will present the request to the Zoning Board of Adjustment, and the Zoning Board of Adjustment will take action on the request, taking the following into account:

- Nature of the proposed use of the land involved,
- Existing use of land in the vicinity,
- Possibility that a nuisance will be created, and
- Probable effect of such variance upon traffic conditions and upon public health, convenience, and welfare of the vicinity.



In order for a variance to be granted, the ZBA must find the following,:

1. **Extraordinary Conditions**
There are extraordinary or special conditions affecting the land involved such that strict application of the provisions of the UDO will deprive the applicant of the reasonable use of his land.
2. **Enjoyment of a Substantial Property Right**
The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.
3. **Substantial Detriment**
Granting the variance will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area, or to the City in administering the UDO.
4. **Subdivision**
Granting the variance will not have the effect of preventing the orderly subdivision of other land in the area in accordance with the provisions of the UDO.
5. **Flood Hazard Protection**
Granting the variance will not have the effect of preventing flood hazard protection.
6. **Other Property**
That these special conditions do not generally apply to other property in the vicinity.
7. **Hardships**
That the hardship is not the result of the applicant's own actions or financial in nature.
8. **Comprehensive Plan**
Granting the variance would not substantially conflict with the Comprehensive Plan and the purposes of the UDO.
9. **Utilization**
That because of these conditions, the application of the UDO to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.

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Variances may *not* be granted where the effect would be any of the following:

- To allow the establishment of a use not permitted in the applicable zoning district;
- To increase the density of a use, above that permitted by the applicable district;
- To extend physically a nonconforming use of land; or
- To change the zoning district boundaries shown on the Official Zoning Map.

The fact that property may be utilized more profitably should a variance be granted may not be considered grounds for a variance.

Written Interpretation

Although the Unified Development Ordinance was written with every effort to be as clear and concise as possible, there are occasions where an interpretation might be necessary to better understand a regulation or provision. The UDO provides the Administrator with the authority to make those interpretations upon request. These requests may only be made during development review or when a code enforcement requirement is in question, and will be provided in writing.

In order to make an informed interpretation, the Administrator is instructed by the UDO to follow these steps:

- Review and evaluate the request in light of the text of the UDO, the Official Zoning Map, the Comprehensive Plan, and any other relevant information;
- Consult with other Staff, as necessary; and
- Render an opinion in writing.

Appeals of written interpretations must be filed within 30 days by a party affected by the written interpretation to the Zoning Board of Adjustment. However, interpretations of UDO sections pertaining to subdivisions or signs within the City's extraterritorial jurisdiction must be made to the Planning & Zoning Commission. If no appeal is filed within 30 days, the written interpretation is final.

Administrative Adjustment

Administrative adjustments are deviations from development standards where the proposed development would be:

- Compatible with surrounding land uses;
- Harmonious with the public interest; and
- Consistent with the purposes of the UDO.

The Administrator may use this tool to authorize adjustments of up to 10 percent from any numerical zoning standard set forth in Articles 5, 6, or 7 of the UDO. Any adjustment request greater than 10 percent will be treated as a variance handled by the Zoning Board of Adjustment.

In the event that the Administrator finds that the applicant has not met the above criteria, the applicant may request that the application be forwarded to the Zoning Board of Adjustment as a variance request.

Administrative Appeals

Appeals to the Zoning Board of Adjustment may be requested by any person aggrieved by, or any officer or department affected by, specific points found in any of the following final decisions of the Administrator:

- Written interpretations of the text of the UDO; and
- Denial of building permit or site plan based on interpretation of Section 7 of the UDO.

An appeal from any final decision of the Administrator must be filed within 30 days of receipt of the decision. If no appeal is filed within 30 days, the decision is final. The Zoning Board of Adjustment will hear the appeal within 60 days of the appeal application. The Board only considers the specific interpretive language of the Administrator and may reverse or affirm wholly or partly, or may modify the interpretation appealed. In any case, the Board may only present findings regarding specific errors made in the Administrator's interpretation.

In the event of an appeal, the decision of the Administrator will not go into effect until the appeal is heard, unless the Administrator can certify that the stay would cause imminent peril to life or property. If this is the opinion of the Administrator, the decision will go into effect until a restraining order is issued by the Board or by a Court.

Any appeal of the Zoning Board of Adjustment's decision must be made within 10 days of the decision to a Court of Law.

Frequently Asked Questions**1. How do I find out what my property is zoned and what uses are permitted?**

Zoning Fact Sheets are available from the Planning & Development Services Department, or on the City's website <www.cstx.gov>. However, the Planning Division within the Planning & Development Services Department is also a point of contact for any zoning information. Any of the Planners within the division can address your question.

2. What if the zoning on my property does not permit the use I want?

You may request a rezoning to a district which allows your intended use, find other property zoned appropriately, or check to see if your use may be considered as a conditional use in the zoning district.

3. How do I find out if my rezoning is likely to be successful?

You should discuss your request with a Staff Planner who will explain the pertinent information that will be considered by Staff in making a recommendation to the Commission and Council.

4. What does the Staff consider when making a recommendation?

Staff will look at the City's Comprehensive Plan and Development Policies to see if the uses permitted in the requested zoning district are compatible with projected future land uses, existing land uses, and any relevant development policies. Impacts of the range of uses permitted in the requested district on surrounding development and anticipated future development will be examined.

5. How long does the rezoning process take?

A minimum of two months is needed to complete the required public hearings.

6. How does the public hearing process work?

First a public hearing will be held before the Planning & Zoning Commission (P&Z). Staff will make a presentation and recommendation, after which the applicant will be allowed to present their case. Then the public will be allowed to comment. After the public hearing is closed, the Commission will make a recommendation to the City Council.

The City Council will hold the second public hearing. Staff will make a presentation and recommendation, including P&Z recommendations, after which the applicant will be allowed to present their case. The public then will be allowed to comment. The Council will decide the final outcome of the request.

7. How is the public notified of my request involving a public hearing?

The Planning & Development Services Department publishes a legal notice in the Classified Section of the local newspaper, posts the agenda of the meeting at City Hall, mails certified notices to all property owners within 200 feet of the property under consideration, and may place or require to be placed a sign advertising the public hearing on the subject property.